

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL W. ERVIN,

Plaintiff,

vs.

No. CV 21-00949 JB/JHR

THE UNITED STATES,

et al.,

Defendants.

**ORDER GRANTING LEAVE TO PROCEED  
PURSUANT TO 28 U.S.C. § 1915(b),  
AND TO MAKE PAYMENTS OR SHOW CAUSE**

This matter is before the Court on the Motion for Leave to Proceed *In Forma Pauperis* and Affidavit of Indigency, and the Application to Proceed in District Court Without Prepayment of Fees or Costs filed by Plaintiff Michael W. Ervin. (Doc. 2, 13). Based on analysis of the applications (Doc. 2, 13) and the inmate account statement (Doc. 3 at 2-3), the Court grants Plaintiff leave to proceed under 28 U.S.C. § 1915(a) and (b). Because the Court grants the applications, the filing fee for this civil rights complaint is \$350.00. Pursuant to § 1915(b)(1), Plaintiff is required to make installment payments until the full amount of the filing fee is paid.

Plaintiff's inmate account statement shows total deposits over the six-month period preceding filing in the amount of \$1866.38 for an average monthly deposit of \$311.06. (Doc.3 at 2-3). Analyzing Plaintiff's inmate account statement (Doc. 3 at 2-3) under § 1915(b)(1), the Court finds that Plaintiff owes an initial partial payment of \$62.21 (20% of \$311.06). If Plaintiff fails to make a payment by the designated deadline or show cause why such payment should be excused, the civil rights complaint may be dismissed without further notice.

IT IS THEREFORE ORDERED that the Motion for Leave to Proceed *In Forma Pauperis* and Affidavit of Indigency, and Application to Proceed in District Court Without Prepayment of Fees or Costs filed by Plaintiff Michael W. Ervin (Doc. 2, 13) are GRANTED;

IT IS FURTHER ORDERED that, within thirty (30) days of entry of this Order, Plaintiff send to the Clerk an initial partial payment of \$62.21 or show cause why payment should be excused;

IT IS FURTHER ORDERED that the Clerk is directed to provide Plaintiff with two copies of this Order, and that Plaintiff make the necessary arrangements to attach one copy of this Order to the check in the \$62.21 amount of the initial partial payment;

IT IS FINALLY ORDERED that, after payment of the \$62.21 initial partial fee, Plaintiff make monthly payments of twenty per cent (20%) of the preceding month's income credited to the account or show cause why the designated payments should be excused.

  
UNITED STATES MAGISTRATE JUDGE